

REPLY UNDER 37 C.F.R. 1.116 – EXPEDITED  
TECHNOLOGY CENTER 1614

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit	:	1614	Customer No.:	035811
Examiner	:	Shirley V. Gembch		
Serial No.	:	10/520,809		
Filed	:	January 10, 2005	Docket No.:	TIP-04-1339
Inventors	:	Koji Kawai		
	:	Akiyoshi Saito	Confirmation No.:	9964
	:	Tomohiko Suzuki		
	:	Ko Hasebe		
	:	Tsutomu Suzuki		
Title	:	THERAPEUTIC OR PREVENTIVE AGENT FOR NAUSEA/VOMITING		

Dated: February 6, 2008

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**RESPONSE**

**Mail Stop AF**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is submitted in response to the Official Action dated September 7, 2007.

Claims 11 – 12, 14 and 16 stand rejected under 35 U.S.C. §103 as being unpatentable over Portoghesi taken with Rudd in view of Neeleman as evidenced by Meijer. This is set forth in the middle of page 3 of the Official Action. It appears, based on the comments following the rejection that the rejection is really based on Portoghesi in view of Rudd. The Applicants respectfully submit that one skilled in the art would not make the combination inasmuch as there would be no reasonable expectation of success in making such a hypothetical combination. Details are set forth below.

The Applicants believe that the essence of the rejection is summarized as follows:

- (1) Portoghesi discloses the adverse effect of morphine (see col. 1, lines 15-24), wherein one such effect is vomiting. If a ligand acts at a single opioid